

**Internal Revenue Service**  
P.O. Box 2508  
Cincinnati, OH 45201

**Department of the Treasury**

Number: **201322047**  
Release Date: 5/31/2013

**Employer Identification Number:**

**Contact person - ID number:**

**Contact telephone number:**

**Date:** March 7, 2013

**LEGEND:**

S = county  
T = county  
U = county  
V = county  
W = state  
X = scholarship  
y = dollar amount

UIL: 4945.04-04

Dear \_\_\_\_\_ :

You asked for advance approval of your scholarship grant procedures under Internal Revenue Code section 4945(g). This approval is required because you are a private foundation that is exempt from federal income tax. You requested approval of your scholarship program to fund the education of certain qualifying students.

**Our determination**

We approved your procedures for awarding scholarships. Based on the information you submitted, and assuming you will conduct your program as proposed, we determined that your procedures for awarding scholarships meet the requirements of Code section 4945(g)(1). As a result, expenditures you make under these procedures won't be taxable.

Also, awards made under these procedures are scholarship or fellowship grants and are not taxable to the recipients if they use them for qualified tuition and related expenses (subject to the limitations provide in Code section 117(b)).

**Description of your request**

Your letter indicates you will operate a scholarship program called X. The purpose of X is to provide scholarship opportunities to high school seniors who demonstrate a high standard for academic achievement and a strong work ethic.

Eligibility criteria for applicants include the following:

- Graduating senior in a county of S, T, U and V in the state of Y.
- 3.2 or higher GPA on a 4.0 scale.
- Demonstrated financial need.
- 1150 or higher SAT score or 28 or higher on the ACT.
- U.S. citizen or lawful permanent resident.
- Attending a college or technical school for the summer or fall semester as a full time student.
- Submitted a completed scholarship application.

You will award up to 20 scholarships of y dollars each in the first year of X. Half of the funds will be provided up front. If, at the end of an academic term, a recipient has submitted reports satisfying continuing funding requirements, the remainder will be provided. This may continue until the recipient has fulfilled academic credit needs. These amounts may be increased based on prevailing tuition rates.

You will publicize X by visiting schools within the selected districts, communicating with school counselors, and with school boards. You also expect to launch a web site.

Your selection committee members are selected by and replaced by your board of directors. Applicants that are related to members of the selection committee are not eligible to receive scholarship funds.

You will deposit scholarship funds with the attended institutions identified in IRC 170(b)(1)(A)(ii). You will obtain in writing that the institution will monitor the funds for qualified expenditures only. In addition to school restrictions, you will require all scholarship recipients who want to continue receiving funds to submit a short written document explaining their progress; including an official transcript. If the recipient does not meet the standards, then the recipient will not receive additional funding.

If the submitted reports (or failure to submit reports), or other information indicates that any part of a scholarship is not being used for its intended purpose, you will investigate, and while conducting its investigation, will withhold further payments until any delinquent reports required by you have been submitted.

All records will be retained regardless of whether the applicant was awarded a scholarship or not. The information retained will include applications and any supplemental information, such as grades and essays, used to determine recipients. The amount awarded will be kept on file, and all semester end reports from recipients will also be kept. Reports will be kept for three years after the conclusion of a scholarship.

If you learn that all or any part of a scholarship is not being used in furtherance of the purposes of the scholarship, you will take all reasonable and appropriate steps to recover the funds and/or ensure restoration of the diverted funds to the purposes of the scholarship. If such a diversion occurs and the recipient has not previously diverted scholarship funds to any use not in furtherance of the purposes of the scholarship, you will withhold any further payments to the recipient until you have received the recipient's

assurance that future diversions shall not occur and shall require the grantee to take extraordinary precautions to prevent future diversions from occurring.

When a recipient has previously diverted funds received from you and you determine that any part of a scholarship has again been used for improper purposes, you will take all reasonable and appropriate steps, including legal action, to recover the funds and/or ensure restoration of the diverted funds to the purposes of the scholarship. In such case, the recipient will not be eligible to renew the scholarship for additional semesters.

#### **Basis for our determination**

The law imposes certain excise taxes on the taxable expenditures of private foundations (Code section 4945). A taxable expenditure is any amount a private foundation pays as a grant to an individual for travel, study, or other similar purposes. However, a grant that meets all of the following requirements of Code section 4945(g) is not a taxable expenditure.

- The foundation awards the grant on an objective and nondiscriminatory basis.
- The IRS approves in advance the procedure for awarding the grant.
- The grant is a scholarship or fellowship subject to the provisions of Code section 117(a).
- The grant is to be used for study at an educational organization described in Code section 170(b)(1)(A)(ii).

#### **Other conditions that apply to this determination**

- This determination only covers the grant program described above. This approval will apply to succeeding grant programs only if their standards and procedures don't differ significantly from those described in your original request.
- This determination applies only to you. It may not be cited as a precedent.
- You cannot rely on the conclusions in this letter if the facts you provided have changed substantially. You must report any significant changes to your program to the Cincinnati Office of Exempt Organizations at:

Internal Revenue Service  
Exempt Organizations Determinations  
P.O. Box 2508  
Cincinnati, OH 45201

- You cannot award grants to your creators, officers, directors, trustees, foundation managers, or members of selection committees or their relatives.
- All funds distributed to individuals must be made on a charitable basis and further the purposes of your organization. You cannot award grants for a purpose that is inconsistent with Code section 170(c)(2)(B).

- You should keep adequate records and case histories so that you can substantiate your grant distributions with the IRS if necessary.

Please keep a copy of this letter in your records.

If you have questions, please contact the person listed at the top of this letter.

Sincerely,

Holly O. Paz  
Director, Exempt Organizations  
Rulings and Agreements